

**UNITED STATES BANKRUPTCY COURT FOR THE
NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION**

In re:)	Chapter 7
)	
JOHN YOUSEFZAI and)	Bankruptcy No. 15 B 34697
ARMANOUHI ARZOMANIAN,)	
)	
Debtors.)	Honorable Jacqueline P. Cox

NOTICE OF HEARING ON OBJECTION TO CLAIM NO. 4

TO: See attached list

PLEASE TAKE NOTICE that on **Tuesday, November 2, 2021, at 1:00 p.m.**, I will appear before the Honorable Jacqueline P. Cox, or any judge sitting in Judge Cox's place, and present the Trustee's **OBJECTION TO CLAIM NO. 4 FILED BY THE HUNTINGTON NATIONAL BANK**, a copy of which is attached.

This motion will be presented and heard electronically using Zoom for Government. No personal appearance in court is necessary or permitted. To appear and be heard on the motion, you must do the following:

To appear by video, (1) use this link: <https://www.zoomgov.com/>. (2) Enter the meeting ID 1612732896. (3) Enter the passcode 778135.

To appear by telephone, (1) call Zoom for Government at 1-669-254-5252 or 1-646- 828-7666. (2) Enter the meeting ID 1612732896. (3) Enter passcode 778135.

When prompted identify yourself by stating your full name.

To reach Judge Cox's web page go to www.ilnb.uscourts.gov and click on the tab for Judges.

If you object to this motion and want it called on the presentment date above, you may file a Notice of Objection no later than two (2) business days before that date. If a Notice of Objection is timely filed, the motion will be called on the presentment date. If no Notice of Objection is timely filed, the court may call the matter regardless.

Date: October 3, 2021

**DAVID P. LEIBOWITZ, not individually, but as
the Chapter 7 Trustee of the Debtor's Estate**

By: /s/ David P. Leibowitz

David P. Leibowitz (ARDC # 1612271)
Law Offices of David P. Leibowitz, LLC
3438 N. Elaine Place, Suite 4
Chicago, IL 60657
(312) 662-5750
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CERTIFICATE OF SERVICE

I, Linda A. Green, certify that I served a copy of this notice and the attached Objection to Claim No. 4 on each entity shown on the attached list at the address shown and by the method indicated on the list on October 3, 2021, at 5:00 p.m.

/s/ Linda A. Green

Attorney

SERVICE LIST

Parties served via electronic notice through CM/ECF:

Adam G. Brief Adam.Brief@usdoj.gov

Caleb Halberg chalberg@dykema.com, lpotter@dykema.com

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Parties served via first class U.S. mail:

John Yousefzai and Armanouhi Arzomanian
1130 Ashland Avenue
Wilmette, IL 60091

The Huntington National Bank
c/o William J. Factor, FactorLaw
105 W. Madison St., Suite 1500
Chicago, IL 60602

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Debtors.)	Honorable Jacqueline P. Cox

OBJECTION TO CLAIM NUMBER 4
FILED BY THE HUNTINGTON NATIONAL BANK

NOW COMES David P. Leibowitz (“Trustee”), not individually but as the chapter 7 trustee of the bankruptcy estate of John Yousefzai and Armanouhi Arzomanian (“Debtors”), and hereby respectfully submits his objection to claim number 4 filed by The Huntington National Bank. In support of this objection, the Trustee states the following:

JURISDICTION AND VENUE

1. This Court has jurisdiction over this case pursuant to 28 U.S.C. § 1334 and venue is proper pursuant to 28 U.S.C. §§ 1408 and 1409.
2. By Local Rule 40.3.1(a) of the United States District Court for the Northern District of Illinois, the District Court has referred all bankruptcy cases to the Bankruptcy Court for initial determination, as permitted by 28 U.S.C. § 157(a).
3. This is a core proceeding pursuant to 28 U.S.C. § 157(b)(2)(A), (B), and (O).

FACTUAL AND PROCEDURAL BACKGROUND

4. Debtors filed a voluntary chapter 7 petition on October 12, 2015 (the “Petition Date”), and David P. Leibowitz was appointed trustee.
5. On May 11, 2016, David P. Leibowitz filed a no-asset report, and the case was closed.

6. On May 26, 2021, the United States Trustee filed a motion to reopen this case to allow for the administration of an escrow distribution from an undisclosed prepetition real estate transaction.

7. An order reopening this case was entered on June 8, 2021, and David P. Leibowitz was reappointed as trustee (the “Trustee”) on June 9, 2021.

8. On September 10, 2021, The Huntington National Bank, as successor by merger to FirstMerit Bank, N.A. (“Huntington”), filed a proof of claim, designated as Claim No. 4 in this case, which asserts a claim for \$ 859,321.45 (“Claim No. 4”). A copy of Claim No. 4 is attached hereto as Exhibit A.

9. Claim No. 4 was filed as a secured claim in an amount “TBD” (i.e., to be determined) and as an unsecured claim in an amount “TBD,” based on a judgment against Debtors, individually, and a citation lien thereafter obtained against them.

10. The funds that the Trustee has recovered represent proceeds of real estate sold through an escrow. The corporation that owned the real estate was not subject to a judgment or citation lien in favor of First Merit Bank or The Huntington National Bank.

11. Since the corporation has now been dissolved and Mrs. Arzomanian was the stockholder in the corporation, the escrowee has disbursed the funds to the Trustee.

12. As there is no evidence that a judgment was ever entered against any entity other than the Debtors, personally, the claim of The Huntington National Bank is unsecured as to the funds recovered by the Trustee.

13. Accordingly, Claim No. 4 should be denied secured status and allowed as a general unsecured claim against this estate.

RELIEF REQUESTED

14. The Trustee requests that the Court deny secured status to Claim No. 4 and allow the claim as a general unsecured claim against this estate in the amount of \$ 859,321.45.

NOTICE

15. At least 30 days' notice of this objection was provided to: (i) the Debtors, (ii) their attorney, (iii) The Huntington National Bank, as specified in its proof of claim, (iv) the Office of the United States Trustee, and (v) all parties that have requested or receive notice through CM/ECF. In light of the nature of the relief requested, the Trustee requests that this Court find the notice provided for herein sufficient under the circumstances and waive and dispense with any further notice requirements.

WHEREFORE, the Trustee requests that the Court enter an order:

- (a) Denying secured status to Claim No. 4 and allowing it as a general unsecured claim in the amount of \$859,321.45; and
- (b) Granting such further relief as the Court deems just and proper.

**DAVID P. LEIBOWITZ, not individually, but as
the Chapter 7 Trustee of the Debtors' Estate**

By: /s/ David P. Leibowitz
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